

**APPENDIX A**  
IN THE CIRCUIT COURT OF THE STATE OF  
OREGON COUNTY OF MULTNOMAH (Traffic  
Division) Case No 03-1330-ST  
STATE OF OREGON, Plaintiff )  
Vs MELVIN HOLST, Defendant )  
Traffic Violation Hearing of Melvin Holst 1-06-03  
Transcribed by: Iva Osman Tel (503) 643 8582  
Excerpts from the transcript of Petitioner's Traffic  
Case with Oregon 4<sup>th</sup> Circuit Court Judge Harold J.  
Blank, on 1-06-03.  
Portland, OR Risk Management Case # G2003-0644-  
01 MW

Police Officer Frolov: I would like to offer the  
photos as evidence of the violation.

Judge Blank: Go ahead. Take a look at the pictures.

Petitioner: There were trees there. And, there also  
were vehicles along the side of the road. I didn't see  
the sign until I was right in the 57<sup>th</sup> Street  
Intersection. I don't think it is fair to get a ticket in  
that short distance.

Judge Blank: (Verbatim) "ALL RIGHT. THE  
STANDARD OF PROOF IS IN THE  
PREPONDERANCE OF EVI-DENCE AND IT  
MEANS THE GREATER WEIGHT AND YEAH,  
IN MY VIEW I'M SATISFIED THAT THE PRE-  
PONDERANCE OF THE EVIDENCE -- THE  
VIOLATION OCCURRED. ALRIGHT. FINE OF  
\$55.00."

Unquote.

**APPENDIX B**  
**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**

Melvin Holst, Plaintiff ) CV-03-1330-ST

v. )

The City of Portland, OR, Vera Katz )

**JUDGMENT**

Mayor; and The Circuit Court of the )

State of Oregon for Multnomah )

County, Mr. Dale Koch, Presiding )

Judge, 4<sup>th</sup> Circuit, Defendants )

STEWART, Magistrate Judge

“Based on the record, IT IS ORDERED AND

**ADJUDGED**

that Plaintiff take nothing and this action is

**DISMISSED**

Dated this 14<sup>th</sup> day of May, 2004.

Signed: Janice M. Stewart

United States Magistrate Judge

**OPINION and ORDER**

Date: May 14, 2004

APPENDIX C  
UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

Melvin Holst, Plaintiff-Appellant ) No  
04-35496

v. )  
City of Portland; Vera Katz, Mayor; ) DC CV-03-  
01330-JMS

4<sup>th</sup> Circuit Court of OR, Dale Koch )  
Presiding Judge Defendants-Appellees )  
MEMORANDUM\*

Appeal from the U.S District Court for the District of  
Oregon

Janice M. Stewart, Magistrate Judge, Presiding\*\*  
Submitted October 11, 2005\*\*\*

Before: T.G NELSON, TALLMAN & BEA, Circuit  
Judges

- Not appropriate for publication \*\* Parties consent  
to

proceed before a Magistrate \*\*\*Case suitable for  
decision w/o oral argument. Verbatim Quote: "To  
the extent Holst seeks prospective relief, the district  
court also properly dismissed his claims because  
Holst did not identify any underlying constitutional  
violation. See Crumpton v. Gates, 947 F.2d 1418,  
1420 (9<sup>th</sup> Cir. 1991) (Section 1983 claim requires  
violation of federally protected right.) Portland's  
photo-radar procedures comport with Oregon law,  
which guarantees a hearing, provides a statutory  
defense when traffic control devices are improperly  
installed, gives notice to violators that a police officer  
can testify and allows for discovery of evidence. See  
See Lasar v. Ford Motor Co, 399F.3d 1101, 1110 (9<sup>th</sup>  
Cir. 2005) Civil sanctions require only adequate  
notice and an opportunity to be heard). Holst's  
remaining contentions also lack merit. AFFIRMED"

Unquote. NOTE: While this document is NOT signed, it bears a stamp under date of Oct 19, 2005, as follows: Cathy A. Catherson, Clerk

U.S. Court of Appeals

PETITIONER Repeats that the court's assertions about my not having cited any underlying causes for my due process complaint are factually in error.  
REASON: I specifically DID cite such Federal authority in my Base Lawsuit at Appendix G.  
Moreover, the statement that Portland's photo-radar procedures comport with Oregon law also are most factually erred. In fact, they are the very subject and cause of this Petition for a Writ of Certiorari. Please see Petitioner's key rebuttal in Para 1 of the PETITION TEXT on Page 1of this Writ. And all of Appendix G with emphasis on Page G-2 .

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**APPENDIX D**

**UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT**

Melvin Holst, Plaintiff-Appellant ) No. 04-35496  
v ) DC # CV-03-01330-JMS

City of Portland, et al., ) Oregon (Portland)  
Defendants-Appellees ) ORDER

Before: T.G. NELSON, TALLMAN & BEA,  
Circuit Judges,

The panel has voted to deny appellant's petition for panel rehearing. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed.R.App.P.35.

The petition for panel rehearing and the petition for rehearing en banc are denied. And no further filings will be accepted in this closed appeal.

NOTE: The ORDER was not signed, hence no signature block can be affixed hereon.

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**APPENDIX E**  
**RULE 26 OF THE FRCP (DUTY OF  
DISCLOSURE)**

**(A) Required Disclosures; Methods to Discover  
Additional Matter.**

(1) **Initial Disclosures.** Except to the extent Otherwise stipulated or directed by order or local rule, a party shall, without awaiting a discovery request, provide to other parties:

(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information.

(B) A copy of or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings;

NOTE: The remainder of this paragraph and RULE 26 are not included because they are NOT directly germane.

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## APPENDIX F

### AMENDMENT V, U.S. CONSTITUTION

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury except in cases arising in the land or naval forces or in the militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

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### AMENDMENT XIV, U.S. CONSTITUTION

1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. NOTE: The remaining 3 paragraphs of this Amendment are not included because they are not considered germane.
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## **APPENDIX G**

**Excerpts from Plaintiff's Base Lawsuit Filed Thru the  
U.S. District Court for District of Oregon on 9-29-03**

**Face Page: Melvin (NMI) Holst**

**215 SW 14<sup>th</sup> St.,  
Gresham, Oregon 97080  
Tel (503) 661-1556**

**Melvin (NMI) Holst, Plaintiff CV"-3 1330 ST**

**Vs**

- 1) The City of Portland, Oregon, Vera Katz, Mayor**
- 2) The Circuit Court of the State of Oregon For  
Multnomah County Mr Dale Koch, Presiding Judge,  
4<sup>th</sup> Circuit**

## **COMPLAINT**

**Denial of Civil Rights for Due Process under 5<sup>th</sup>  
Amendment of the U.S. Constitution. See TAB A-1  
The requests of this complaint appear at TAB A-2**

**Dated Sep 29, 2003      Signed Melvin Holst, Plaintiff**

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**APPENDIX G (Continued from Plaintiff's Base Lawsuit)** Gresham, Oregon  
September 23, 2003  
Excerpt Quote: Para VI. Plaintiff Holst's Complaint and Cause of Action. A denial of my Civil Rights for "Due Process" as provided by the 5<sup>th</sup> Amendment of the U.S. Constitution. The details of my complaint appear directly below. And the requests of my complaint appear at TAB A-2.

a. In the DISCOVERY phase of a Speed Of a Speed Law Violation Trial for which Plaintiff Holst was subsequently found guilty (37MPH entering a 25MPH Zone) the city of Portland did the following in violation of several Oregon Statutes and U.S. CIVIL PROCEDURE RULE 26 that is attached last under as TAB C-13.

- C-4)

  - (1) Withheld evidence (TAB C-3)
  - (2) Altered evidence (TABS C-3 and
  - (3) Denied access to evidence and potential witnesses (TAB C-3)
  - (4) Did NOT reveal that a police official would testify against me at my trial (TAB C-3.)

b. During the trial at sub-paragraph a, above, the Traffic Judge involved:

- (1) Failed to honor Oregon Revised Statute 810.250 (TAB C-6) that exonerates citizens for a speed law violation if they, for good reason, did not/could not see the applicable speed regulating sign.

**APPENDIX H**  
**NOTICE OF SPEED LAW VIOLATION**  
**DOCUMENT**

City of Port- City of Vera Katz, Mayor  
land Seal PORTLAND, OREGON Mark Kroeker,  
Police

Bureau of Police 1319 SE MLK Blvd

Notice of Speed Law Violation Portland, 97214-3499

**RESPONSE REQUIRED**

Sep 10, 2002 163065

Melvin Holst  
215 SW 14<sup>th</sup> ST  
Gresham, Oregon 97080

Dear  
Melvin  
Holst:  
In an  
effort to  
improve  
traffic  
safety  
and  
com-  
munity-

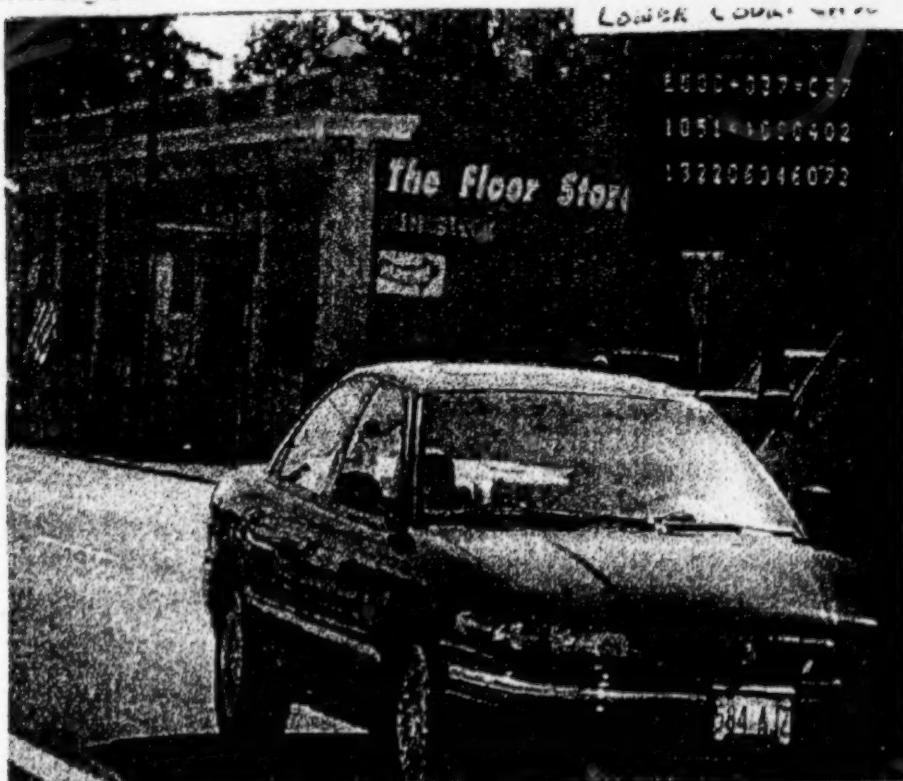


ity, the Portland Police Bureau's Traffic Division has implemented a photo radar detection system within the streets and roadways of the city. The system combines a high speed camera and radar, to record the violator, vehicle and surroundings on film. It also records the observed speed, date, time and location of the violation. A vehicle registered in your name was noted to be in violation of Oregon's speed laws. Above is a digital reproduction of a color photograph taken of your vehicle. Details of the violation appear on the citation enclosed with this letter. A citation has also been filed with the Multnomah

Circuit Court. If you were the driver of the vehicle please read the back of the citation, which describes the options you have for addressing the violation. If you were not driving the vehicle at the time of the violation, you may do one of the following:

1. Schedule an appointment with the Portland Police Bureau to establish that you were not the driver of the vehicle. To schedule an appointment to view the photo, call toll free 503-221-0415 (outside the Portland and Beaverton Metropolitan areas call 1-800-799-7082) between the hours of 9:00 AM and 5:00 PM, Monday through Friday. You will need to bring your driver's license or other photo identification to the appointment. If you were not the driver at the time the offense occurred, proceed to step 2. Fill out the enclosed Certificate of Innocence. Using the enclosed envelope, send the Certificate and a legible photocopy of your driver's license to Circuit Court, P.O. Box 114, Portland, OR 97207 by Oct 14, 2002 to report that you were not the driver of the vehicle at the time of the violation. If you were not the driver at the time the offense occurred, the citation against you will be dismissed. If you do not respond to this citation, a judgment of conviction for the traffic violation may be entered against you and ultimately your drivers license may be suspended. I urge you to take care of this matter as soon as possible. Help us make Oregon's neighborhoods and school zones safe for everyone. Respectfully, s/ Mike Garvey, Traffic Division, Portland Police Bureau Manager, Photo Radar Program. Please note: If your vehicle was reported stolen on or before the violation time indicated above please call 503-823-2226 immediately. You must still complete a Certificate of Innocence and mail it, along with a photocopy of your drivers license, to the address listed.

**APPENDIX I**  
Copy of Actual Police Photo taken of the Alleged  
Infraction:



NO TE: This true photo includes the background info that had been unlawfully "cropped" from the altered photo at Appendix H. Evidence, thus, upon which a driver could have established the location of the 25MPH sign involved, and it's frequent obstruction by drivers on SE 57<sup>th</sup> Street awaiting traffic to pass; had absolutely no way of ascertaining that they had less than 2-4 seconds in which to reduce speed rather than the 14-18 seconds that are standard for other intersections

## APPENDIX J

### ORS 162.295 Tampering with Physical Evidence

(1) A person commits the crime of tampering with physical evidence if with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:

- (a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or
  - (b) Knowingly makes, produces or offers any false physical evidence; or
  - (c) Prevents the production of physical evidence by an act of force, intimidation or deception against a person.
- (2) Tampering with physical evidence is a Class A misdemeanor. (1971 c.743 204)
- 
-

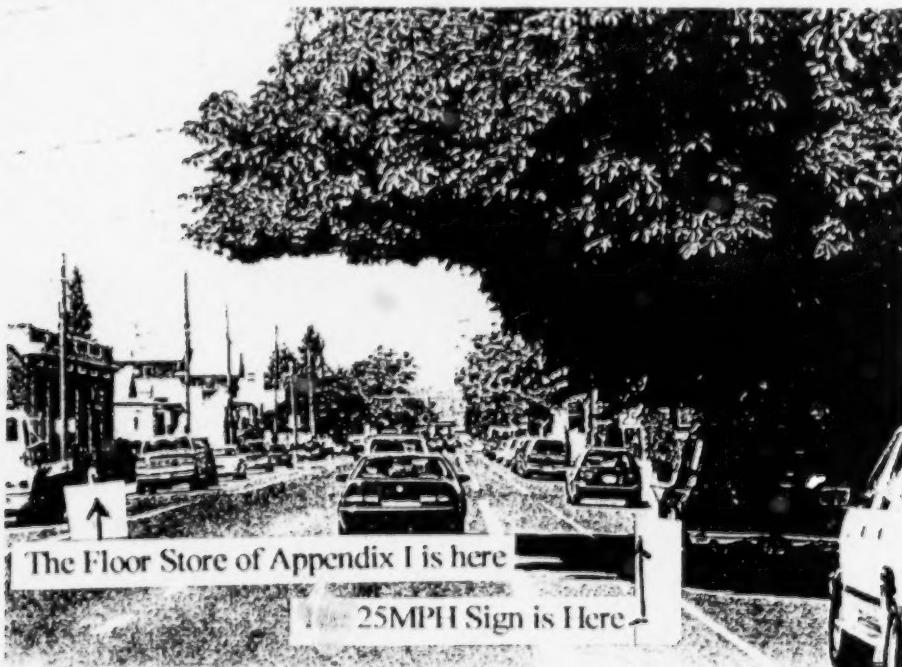
## APPENDIX K

### OREGONIAN NEWSPAPER ARTICLE of 8-03-03

NOTE: This article has been greatly shortened for brevity's sake. Part I, quote: "Portland Police are writing more tickets, but it's costing the bureau money and creating new traffic jams inside the courthouse. Commander Garvey says his department sent out an average of 3,000 tickets a month in the 1<sup>st</sup> half of this year compared with 770 a month last year." Also, "While traffic tickets are bringing in millions of dollars to state, county and city coffers, the Portland Police Bureau gets the smallest cut and allegedly lost more than \$470,000 last year to run the program. Of a \$109 ticket, the first \$35 goes to Oregon's General Fund. Multnomah County gets between \$14 and \$20, and \$1 goes to county jails. The remainder goes to courts and the City of Portland." Unquote.

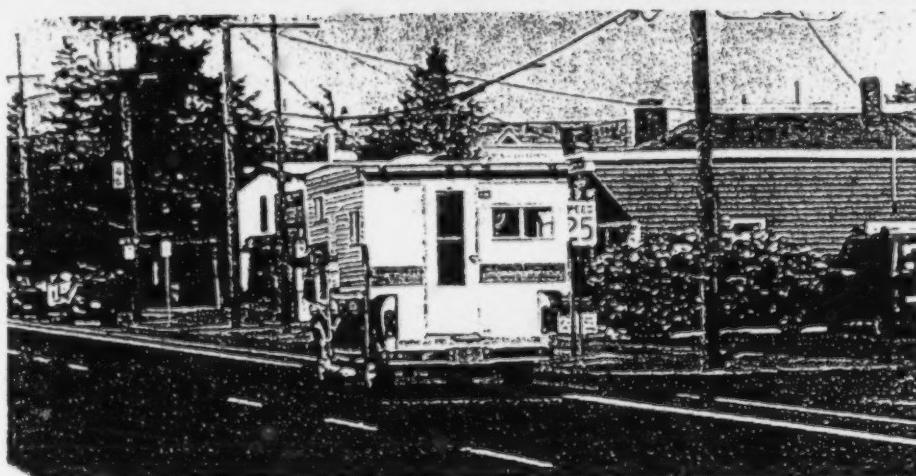
## APPENDIX L

What a driver normally sees of the 25MPH sign on a typical morning in September-October-November.



## APPENDIX L

Selected Photos of the Applicable 25MPH Sign.  
Vans, General Repair Veh, Fully block it off.



## **APPENDIX M**

### **ORCP RULE 64, RETRIALS**

In an action tried without a jury, a former judgment may be set aside and a new trial granted on motion of the party aggrieved on any grounds set forth in Section B of this rule where applicable. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new Judgment. Section B of this rule grants grounds as follows:

- B(1) Irregularity in the proceedings of the court by which such party was prevented from having fair trial.
  - B(2) Misconduct of the jury or prevailing party.
  - B(3) Accident or surprise which ordinary prudence could not have guarded against.
  - B(4) Newly discovered evidence material for the party making the application which such party could not with reasonable diligence have discovered & produced at the trial.
  - B(5) Insufficiency of the evidence to justify the verdict or other decision or that it is against the law.
  - B(6) Error in law occurring at the trial and objected to or excepted to by the party making the application.
- 
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APPENDIX N  
ORS 810.250 Legibility of Traffic Control Device

- (1) A person shall not be convicted of violating a Provision of the vehicle code for which an official traffic control device is required if the device is not in proper position and legible to a reasonably observant person at the time and place of the alleged violation.
- (2) Whenever a particular section of the vehicle code does not state that traffic control devices are required, the section is effective even though no devices are erected or in place.
- (3) When a traffic control device is placed in position approximately conforming to the requirements of the traffic regulations or other laws of this state, the device is presumed to have been placed by an official act or at the direction of lawful authority unless the contrary is established by competent evidence.
- (4) When a traffic control device placed under the vehicle code or other laws or regulations of this state and purporting to conform to the lawful requirements pertaining to that device is presumed to comply with the requirements of the vehicle code unless the contrary is established by competent evidence (1983 c??? 167)

## APPENDIX O

Added comments by Petitioner

1. In weighing this case, Petitioner ASKS that Your Honors of The Court, PLEASE understand that this case is an important matter of JUSTICE to me and the many thousands of citizens who were collectively duped out of "millions" or revenue dollars by our local government. And then had to also pay the increased auto insurance premiums that fell out of those unconstitutional convictions.

2. Moreover, in weighing the overwhelming evidence that is in favor of Petitioner, and the adverse court actions that followed; Petitioner is strong of the opinion that the two (2) Federal courts in question have ruled adversely against him in contradiction of their judicial mandates. Two (2) key reasons apply. These are:

a. Petitioner is NOT an attorney. and they do not want NON attorneys "Meddling" in "Attorney Turf."

b. But even more importantly, Petitioner very strongly suspicous that the Judges are adversely ruling against him because he, Petitioner Holst, has cited Presiding Judge Koch of Oregon's 4<sup>th</sup> Circuit as a defendant. And they wish to protect him. Yes, Respondent Judy C. Lucas, Oregon's assistant Attorney General who defends Presiding Judge Koch, cites the 11<sup>th</sup> U.S. Amendment as Judge Koch's defense. But I, citizen respondent, see the intent of that Amendment much differently. I.e., Yes, judges should be protected from lawsuits against their decisions as "sitting judges." But they certainly should NOT be protected when they so cavalierishly wreak money from people's pockets via COURT (u.)

actions that were KNOWINGLY unconstitutional from the start. Thus, if Judge KOCH is NOT ultimately responsible for those unconstitutional affronts against we citizen's Civil Rights; then who is? And, how does any authority improve judicial performance if judges have NOT been brought to task when they have so PURPOSELY FLAUNTED their authority by design? Other U.S. citizens sure have to answer for their transgressions when they "go wrong." So why are Mayors and Judges any different?

3. In short, Petitioner is NOT guilty of the offense as alleged. He was unconstitutionally convicted. And he feels GROSSLY short changed. All three courts in question did NOT uphold their judicial mandates under our existing state and national laws. Hence Petitioner seeks redress through whatever forms of justice your Honors of this Supreme Court deem appropriate. And from Petitioner's many conversations with other drivers similarly offended, he KNOWS they feel the same. So, in this citizen's pursuit of JUSTICE, PLEASE do NOT let those two leaders get away with this.

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## CERTIFICATE OF FILING

I certify that I have mailed 40 copies of this PETITION FOR A WRIT OF CERTIORARI to the UNITED STATES SUPREME COURT by Certified First Class U.S. Mail, and addressed as indicated directly below, on 1-16-06 in a package addressed to:

THE UNITED STATES SUPREME COURT  
OFFICE OF THE CLERK  
1 FIRST STREET, N.E.  
WASHINGTON, D.C. 20543



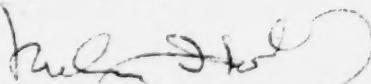
Melvin Holst, Petitioner Pro se  
215 SW 14<sup>th</sup> St  
Gresham, Oregon 97080  
Tel (503) 661-1556  
e-MAIL: MIMSOBjoan@AOL.com

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THE UNITED STATES SUPREME COURT  
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WASHINGTON, D.C. 20543



Melvin Holst, Petitioner Pro se  
215 SW 14<sup>th</sup> St  
Gresham, Oregon 97080  
Tel (503) 661-1556  
e-MAIL MIMSOBjoan@AOL.com